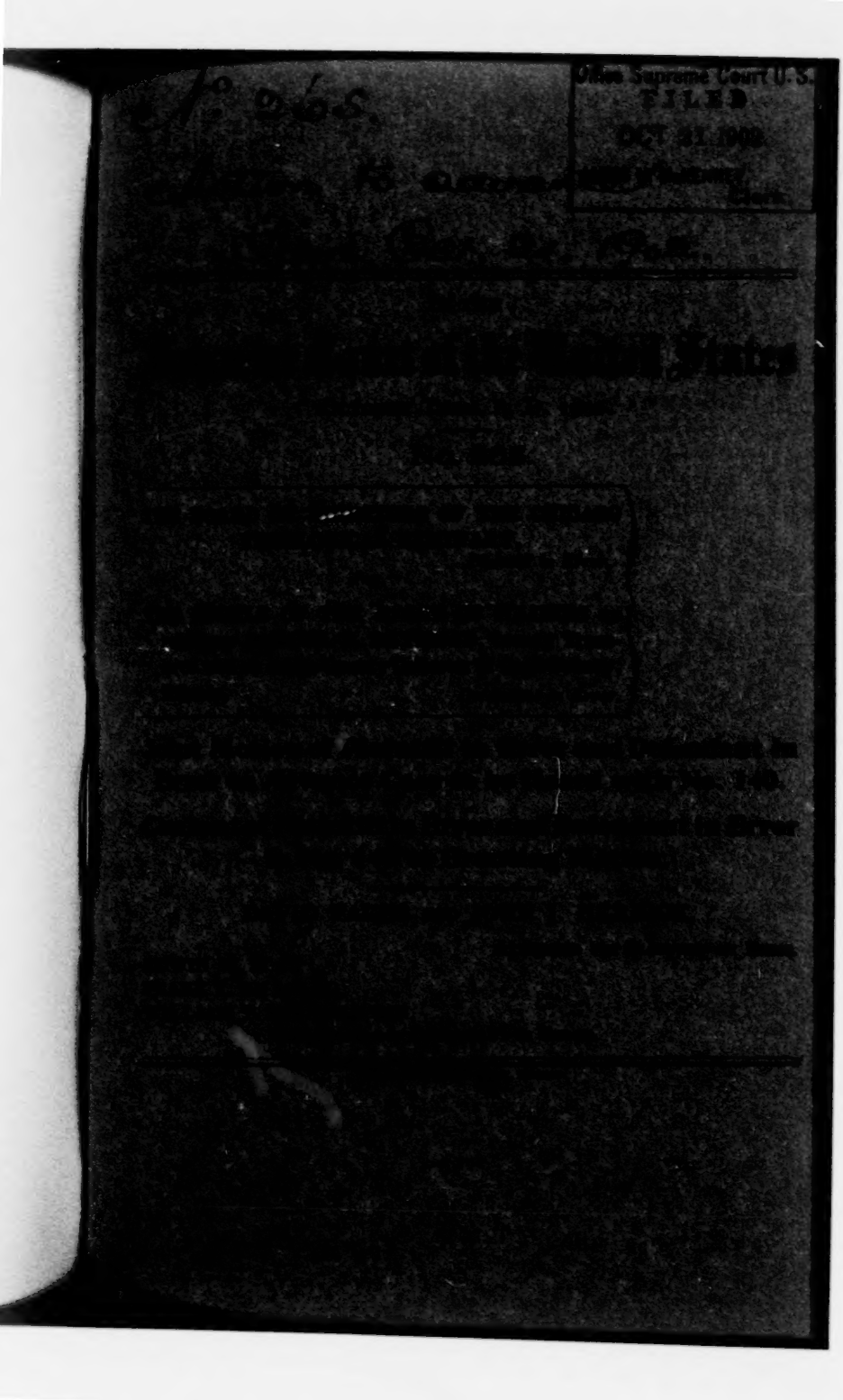

IN THE

Supreme Court of the United States.

OCTOBER TERM, A. D. 1902.

THE BOARD OF DIRECTORS OF THE CHICAGO THEOLOGICAL SEMINARY, *Plaintiff in Error,*
vs.
THE PEOPLE OF THE STATE OF ILLINOIS, *ex relatione* SAMUEL B. RAYMOND, County Treasurer and ex officio County Collector of Cook County, Illinois, *Defendants in Error.*

No. 265.

Joint Motion of Plaintiff in Error and Defendant In Error to Advance Case to be Heard with No. 140.

Consent of Plaintiff in Error and Defendant in Error in No. 140 to Granting Motion.

Now come the plaintiff in error and the defendant in error, and move the court to advance this cause, to be heard together, and argued as one case, with the case of *The Board of Directors of the Chicago Theological Seminary* v. *The People of the State of Illinois, ex rel., etc.*, No. 140, of this docket.

The assignments of error in both cases which the court is asked to hear together (No. 140 and No. 265) present the same question (and no other). The parties in both cases are the same and are represented by the same attorneys and both concur in the motion.

The facts material to the motion are as follows:

The two cases (No. 140 and No. 265) are writs of error brought to review judgments of the State Supreme

Court (the highest court of the state) affirming judgments of the trial court against the plaintiff in error and in favor of the defendant in error.

Both of the judgments of the trial court affirmed by the State Supreme Court were judgments for general taxes levied on certain real estate of the plaintiff in error, particularly described, (Pr. Rec., No. 140, pp. 20, 21; No. 265, pp. 17, 19), the judgment in No. 140 being for the taxes for the year 1899, and in No. 265, for the taxes for the year 1900.

The plaintiff in error was incorporated under an act of the legislature of Illinois passed in the year 1855, entitled: "An Act to incorporate the Chicago Theological Seminary." (Pr. Rec., No. 140, pp. 26, 27; No. 265, pp. 21-22.) Section 5 of the act was as follows:

> "Sec. 5. That the property of whatever kind or description belonging or appertaining to said seminary shall be forever free and exempt from all taxation for all purposes whatsoever."

The taxes for which the judgments were rendered were levied under the General Revenue Act of Illinois, passed in 1872, and its amendments.

The particular pieces of real estate against which the taxes were levied and the judgments were rendered, were the same in both cases, and the same general facts as to the lands, and the purposes for which they are held and used, are stipulated in both cases,—that they were acquired by the plaintiff in error by gift or purchase, and are held by it for the uses for which it was incorporated, and that the rentals received from them are used for those purposes. (Pr. Rec., No. 140, p. 26; No. 265, p. 20.)

In both cases in the trial court, the plaintiff in error

by objections in writing set up the provision of its charter (Section 5 already quoted) granting it exemption from taxation, and claimed that the Revenue Act of 1872, and the action of the officers of the State in levying the taxes, violated the obligation of its contract with the State of Illinois arising from the charter, and were, for that reason, contrary to Paragraph 1 of Section X of Article I of the constitution of the United States, providing that no state shall pass any law violating the obligation of any contract. (Pr. Rec., No. 140, pp. 16, 20; No. 265, pp. 16, 17.)

The petition for writ of error in both cases set up the same claim as the ground for the writ. (Pr. Rec., No. 140, pp. 64, 65; No. 265, pp. 32, 33.)

The assignments of error in this court in both cases are in substantially the same language, and present the same question (and no other)—whether the General Revenue Act of 1872, as amended, and the action of the state under it in levying the taxes on the particular property (in No. 140, the taxes for 1899, and in No. 265, the taxes for 1900), impaired the obligation of the contract arising from the charter of the plaintiff in error, and was, for that reason, repugnant to the provision of the constitution of the United States; that no state shall pass any law impairing the obligation of a contract. (Pr. Rec., No. 140, pp. 67, 70; No. 265, pp. 35, 38.)

In view of these facts, both plaintiff in error and the defendant in error (who are also the plaintiff in error and the defendant in error in No. 140, and represented by the same attorneys) unite in this motion to advance

No. 265, to be heard together and argued as one case with No. 140.

DAVID FALES and
JOHN J. HERRICK,
Attorneys for Plaintiff in Error.

EDWIN W. SIMS,
FRANK L. SHEPARD,
WILLIAM F. STRUCKMANN,
For Defts. in Error.

The plaintiff in error and defendant in error, in the case of The Board of Directors of the Chicago Theological Seminary *vs.* The People of the State of Illinois, *ex rel.* Samuel B. Raymond, County Treasurer, and *ex officio* County Collector of Cook County, Illinois, No. 140, hereby consent to the granting of the above motion.

DAVID FALES and
JOHN J. HERRICK,
Attorneys for Plaintiff in Error.

EDWIN W. SIMS,
FRANK L. SHEPARD,
WILLIAM F. STRUCKMANN,
For Defts. in Error.